Introduction

1. The Applicant, a former driver, working with the United Nations Children's Fund ("UNICEF") in the Democratic Republic of Congo, on 4 September 2024 filed an incomplete application[1], which he completed on 17 September 2024, contesting UNICEF's decision to separate him from service due to misconduct.

2. On 27 September 2024, the Respondent filed a motion requesting the Tribunal to: (i) suspend the Respondent's deadline for the filing of the reply pending the determination of the motion, and (ii) determine receivability as a preliminary matter and dismiss the application.

3. By Order No. 135 (NBI/2024), the Tribunal granted the Respondent's motion. By the same Order, the Applicant was directed to file a rejoinder on the issue of receivability on or before Monday, 14 October 2024.

4. The Applicant filed the rejoinder on 11 October 2024.

Consideration

5. Article 8.1(d)(ii) of the Statute of the Dispute Tribunal prescribes that an application shall be receivable in cases where management evaluation of the contested decision is not required, if it is filed within 90 calendar days of the Applicant's receipt of the administrative decision. Staff rule 11.4(b) sets the same deadline. Further, the United Nations Appeals Tribunal ("UNAT") has consistently and strictly enforced the time limits for filing applications and appeals because strict adherence to filing deadlines ensures the timely hearing of cases and rendering of judgments (*Mezoui* 2010-UNAT-043; *Kissila* 2014-UNAT-470).

6. As a disciplinary decision, this case did not require management evaluation. The evidence before the Tribunal indicates that the contested decision is contained in a letter dated 21 May 2024. On 30 May 2024, the Chief of the UNICEF Field

[1] The Tribunal notes that the application bears the date of "28/08/2024" on the cover sheet, while the signatures on the last page and the Legal Representative Authorization Form (Annex 1) are all dated "29/08/2024". However, the record is clear that the application was not received by the Tribunal until 4 September 2024.

Office (“CFO”) in Kananga, met with the Applicant to hand-deliver the sanction letter to the Applicant, but the Applicant did not sign a declaration of receipt. As a result, the CFO noted “Document lu au staff ce 30/05/2024, qui a ensuite refusé d’accuser réception du courrier.” (English translation: “Document read to staff on 30/05/2024, who then refused to acknowledge receipt of the letter.”)

7. On the same day, the Administrative Law Unit sent the contested decision to the Applicant via email.

8. The Applicant denies having received the sanction letter on 30 May 2024 due to lack of access to his emails. However, the Applicant states he has “in his possession an acknowledgement of receipt dated 5 June 2024”. In fact, annexed to his application the Applicant submitted two emails to him from the CFO. The first is dated 3 June 2024 which says, “As promised, please find attached the decision document of the Deputy Executive Director.” The second email is dated 5 June 2024 and says “Find the document attached… As for the date, it’s best to put the date of our conversation, 5p(xlwioc exe)1(d)-1 [5p( )1(F)-1(i)1(nd 2d)-1(.7836955cm BT 1 0 0 -1 0 11.20300007 Tm [8.9.15(612(W

filed before the statutory time limit had lapsed, as it did in this case, the UNDT has no jurisdiction and is not competent to consider whether there were exceptional circumstances to waive the deadline. *Id.*, para. 20. See also, *Ruger* 2016-UNAT-693, para. 18.

12. The Tribunal notes that the Applicant's other allegations in the rejoinder (relating to the violation of his rights, violation of sec 1.4 of the Secretary-General's bulletin on protection against retaliation), unfortunate as they may be if true, are not relevant to the issue of timeliness of the application. In the absence of a timely application, the Tribunal lacks jurisdiction to consider any of these claims.

Conclusion

13. In view of the foregoing, the Tribunal DECIDES to dismiss the application as not receivable *ratio temporis.*

(Signed)
Judge Sean Wallace
Dated this 15th day of January 2025

Entered in the Register on this 15th day of January 2025
(Signed)
Wanda L. Carter, Registrar, Nairobi